

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 615, "Sanctions," Iowa Administrative Code.

Iowa Code section 321.210A was amended in 2009 Iowa Acts, chapter 130, section 11, which eliminated the authority of the Department to determine whether a person has the ability to pay a criminal penalty, fine, surcharge or court costs before the Department suspends the person's driver's license for failure to pay. The proposed amendment brings the rules up to date to comply with Iowa Code section 321.210A.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning this amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet e-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than December 4, 2012.

A meeting to hear requested oral presentations is scheduled for Thursday, December 6, 2012, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 321.210A.

The following amendment is proposed.

Amend rule 761—615.22(321) as follows:

761—615.22(321) Suspension for nonpayment of fine, penalty, surcharge or court costs.

615.22(1) *Report to the department.* The department shall suspend a person's privilege to operate motor vehicles in Iowa:

~~a. When~~ when the department is notified by a clerk of the district court on Form No. 431037 that the person has been convicted of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that 60 days have elapsed since the person was mailed a notice of nonpayment from the clerk of the district court; and.

~~b. When, in accordance with subrule 615.22(2), the person has not timely raised the defense of inability to pay, or the department determines that the person is able to pay the fine, penalty, surcharge and court costs.~~

~~615.22(2)~~ *Ability to pay.*

~~a.~~—The department shall presume that a person is able to pay the fine, penalty, surcharge and court costs when it receives the “Notice to Suspend” copy of Form No. 431037 from the clerk of the district court.

~~b.~~—The department shall not consider inability to pay as a defense to license suspension unless the person files Form No. 431038 with the department within 45 days after the clerk of the district court mailed notice of nonpayment to the person.

~~c.~~—If the department determines that the person is unable to pay, the department shall notify the person and the clerk of the district court of that decision and shall take no further action. If the department determines that the person is able to pay, the department shall suspend the person’s privilege to operate motor vehicles in Iowa as outlined in subrule 615.22(1).

~~615.22(3)~~ *Suspension.*

~~a.~~ The suspension period shall begin 30 days after the notice of suspension is served.

~~b.~~ The suspension shall continue until the department has issued a notice terminating the suspension. The department shall terminate the suspension when it receives evidence that all appropriate payments have been made.

~~c.~~ An informal settlement, hearing or appeal to contest the suspension shall be limited to a determination of whether the facts required by Iowa Code section 321.210A and this ~~rule~~ subrule are true. The merits of the conviction shall not be considered.

615.22(2) Reserved.

This rule is intended to implement Iowa Code section 321.210A.